

REMARKS

This Application was filed with twenty-four claims. Claims 1-5 have been rejected. Claims 6-24 have been objected to because they were multiple dependent claims that depended on multiple dependent claims. This application is the national phase application of PCT application WO/ 2004/045936. Thus, Claims 1-24 were not specifically written for prosecution in the United States. As a result, Claims 1-24 have been canceled. Claims 25-46 have been added to claim the subject matter of the invention in a more appropriate form. Therefore, Claims 25-46 are pending in the Application. Reconsideration of the application based on the claims and arguments submitted below is respectfully requested.

Claim Rejections - 35 U.S.C. § 102(b)

Claims 1-5 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Donnelly (U.S. Patent 6,308,639). Donnelly however teaches a hybrid locomotive engine for driving traction motors that turn the axles of a train. (Donnelly, Column 1, Lines 44-58) The engine includes an electric generator that is fueled by a fuel tank and a battery that stores electric energy during the operation of the generator. (Donnelly Column 2, Lines 45-48) Once the battery reaches a high charge state, the generator shuts off and the battery powers the traction motors. (Donnelly, Column 3, Lines 25-27; See also Fig. 2, Claim 1) Once the battery drops below a certain level, the generator turns back on to recharge the battery and provide power to

traction motors. (Donnelly, Column 3, Lines 28-29) While the battery does store between 4hrs to 40hrs worth of total charging power for the generator, this charging power is related to the charging power required for the engine to operate as a hybrid engine, not as charging power utilized when the train engine is not operating. (Donnelly, Column 3, Lines 51-52) To power the on-board electrical systems of the train, a 600 V DC source is provided that draws power from the battery. (Donnelly, Column 3, Lines 34-35)

Claim 25

Donnelly does not show the following features of Claim 25:

- 1) a fuel-powered turbine operating independently from the operation of the train engine
- 2) an electric generator being operable to generate an electric power signal and being coupled to receive energy from the turbine whereby the electric power signal can be generated during the power outage.

As discussed above, Donnelly teaches a train engine that actually provides energy for moving the train. The turbine and generator of Donnelly are the actual train engine. In contrast, Claim 25 requires a fuel powered turbine that operates “independently from the operation of the train engine” and thus can operate during power outages. The train engine in Donnelly is the micro-turbine, the generator, and the storage battery disclosed in Fig. 1 and 2 for operating the train. Donnelly

does not disclose another turbine and thus Donnelly cannot disclose a turbine that operates independently of the train engine.

Also, the electrical generator of Donnelly does not show the features of Claim 25. Claim 25 requires an electrical generator that is operable when a power outage occurs. Donnelly does not show an electric generator that operates during a power outage. Furthermore, even if the battery in Donnelly did power the on-board electrical system during a power outage, the battery in Donnelly does not power the turbine or the electric generator. Thus, Donnelly does not have a turbine that operates when the engine is not operating. Claim 25 should thus be allowed.

Claim 33

Donnelly does not show the following features of Claim 33:

- 1) a frame within a compartment defined by the carriage body; and
- 2) an electric generator secured to the frame.

Nothing in Donnelly shows or suggests a frame for securing an electric generator that is stored within a compartment defined by the carriage body of a carriage. Claim 33 should thus be allowed.

Claim 46

Donnelly demonstrates a train having a generator for powering an air conditioning system on a carriage. However, Donnelly only teaches that the train has one generator for powering the air conditioning systems of a train. Claim 46 requires more than one train carriage with a generator for powering the air

conditioning system in multiple carriages. This allows the air conditioning systems of multiple carriages to be cooled during a power outage.

Applicant has commented on some of the distinctions between the cited references and the claims to facilitate a better understanding of the present invention. This discussion is not exhaustive of the facets of the invention, and Applicant hereby reserves the right to present additional distinctions as appropriate. Furthermore, while these remarks may employ shortened, more specific, or variant descriptions of some of the claim language, Applicant respectfully notes that these remarks are not to be used to create implied limitations in the claims and only the actual wording of the claims should be considered against these references.

Claims 26-32, 34-45

Applicant believes that Claims 26-32, 34-45 contain patentable subject matter. However, these Claims are dependent on Claims 25 and 33 which the Applicant has shown are patentable. Applicant reserves argument with regards to Claims 26-32, 34-45 in case further prosecution is necessary.

Pursuant to 37 C.F.R. § 1.136(a), Applicant petitions the Commissioner to extend the time for responding to the Office Action by 3 months from May 28, 2008 to August 28, 2008. Applicant authorizes the Commissioner of Patents to charge Deposit Account No. 23-0035 in the amount of \$1,050 for the petition fee.

Serial No.: 10/534,792
For: Emergency Power Generating Unit for Trains and Train Comprising Said Unit
Attorney's Docket No.: N2321

The Commissioner is authorized to charge any deficiency or credit any overpayment associated with the filing of this Response to Deposit Account 23-0035.

Respectfully submitted,

/Mark J. Patterson/
Mark J. Patterson
Registration No. 30,412
WADDEY & PATTERSON
A Professional Corporation
Customer No. 23456

ATTORNEY FOR APPLICANT

Mark J. Patterson
Waddey & Patterson, P.C.
Roundabout Plaza
1600 Division Street, Suite 500
Nashville, TN 37203
(615) 242-2400